

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 997**

Introduced by McDonald, 41; Aguilar, 35; Dubas, 34.

Read first time January 16, 2008

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections  
2 13-315 and 18-2720, Reissue Revised Statutes of  
3 Nebraska, and sections 18-2705, 18-2709, and 18-2717,  
4 Revised Statutes Cumulative Supplement, 2006; to  
5 change provisions relating to tax levies and economic  
6 development programs; and to repeal the original  
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-315, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           13-315 The city commissioners or council of any city,  
4 the board of trustees of any village, and the county board of any  
5 county in the state shall have the power to appropriate or expend  
6 annually from the general funds or from revenue received from any  
7 proprietary functions of their respective political subdivision an  
8 amount not to exceed ~~four-tenths~~ five-tenths of one percent of  
9 the taxable valuation of the city, village, or county for the  
10 purpose of encouraging immigration, new industries, and investment  
11 and to conduct and carry on a publicity campaign, including a  
12 publicity campaign conducted for the purpose of acquiring from any  
13 source a municipal electrical distribution system or exploiting and  
14 advertising the various agricultural, horticultural, manufacturing,  
15 commercial, and other resources, including utility services, of the  
16 city, village, or county. Such sum may be expended directly by the  
17 city, village, or county or may be paid to the chamber of commerce  
18 or other commercial organization or a similar county organization  
19 or multicounty organization or local development corporation to be  
20 expended for the purposes enumerated in this section under the  
21 direction of the board of directors of the organization. The total  
22 amount levied including the appropriation or expenditure made under  
23 this section shall not exceed the amount limited by law.

24           Sec. 2. Section 18-2705, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1           18-2705 Economic development program shall mean any  
2 project or program utilizing funds derived from local sources of  
3 revenue for the purpose of providing direct or indirect financial  
4 assistance to a qualifying business or the payment of related  
5 costs and expenses or both, without regard to whether that business  
6 is identified at the time the project or program is initiated  
7 or is to be determined by specified means at some time in the  
8 future. An economic development program may include, but shall not  
9 be limited to, the following activities: Direct loans or grants  
10 to qualifying businesses for fixed assets or working capital or  
11 both; loan guarantees for qualifying business; grants for public  
12 works improvements which are essential to the location or expansion  
13 of, or the provision of new services by, a qualifying business;  
14 grants or loans for job training; the purchase of real estate,  
15 options for such purchases, and the renewal or extension of such  
16 options; the issuance of bonds as provided for in the Local Option  
17 Municipal Economic Development Act; ~~and~~ payments for salaries  
18 and support of city staff to implement the economic development  
19 program or the contracting of such to an outside entity; and  
20 community marketing, private tourism developments, and workforce  
21 retention and attraction. For cities of the first and second class  
22 and villages, an economic development program may also include  
23 grants or loans for the construction or rehabilitation for sale  
24 or lease of housing. No more than thirty percent of the total  
25 revenue generated pursuant to the act for an economic development

1 program by a city of the first or second class or village in any  
2 twelve-month period may be used for housing projects. for persons  
3 ~~of low or moderate income.~~ An economic development program may be  
4 conducted jointly by two or more cities after the approval of the  
5 program by the voters of each participating city.

6           Sec. 3. Section 18-2709, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           18-2709 Qualifying business shall mean any corporation,  
9 partnership, limited liability company, or sole proprietorship  
10 which derives its principal source of income from any of the  
11 following: The manufacture of articles of commerce; the conduct  
12 of research and development; the processing, storage, transport,  
13 or sale of goods or commodities which are sold or traded in  
14 interstate commerce; the sale of services in interstate commerce;  
15 headquarters facilities relating to eligible activities as  
16 listed in this section; telecommunications activities, including  
17 services providing advanced telecommunications capability; or  
18 tourism-related activities.

19           In cities of the first and second class and villages,  
20 a business shall also be a qualifying business if it derives its  
21 principal source of income from the construction or rehabilitation  
22 of housing.

23           In cities with a population of more than two thousand  
24 five hundred inhabitants and less than ten thousand inhabitants,  
25 a business shall also be a qualifying business if it derives its

1 principal source of income from retail trade, except that no more  
2 than forty percent of the total revenue generated pursuant to the  
3 Local Option Municipal Economic Development Act for an economic  
4 development program in any twelve-month period, ~~and no more than~~  
5 ~~twenty percent of the total revenue generated pursuant to the~~  
6 ~~act for an economic development program in any five-year period,~~  
7 commencing from the date of municipal approval of an economic  
8 development program, shall be used by the city for or devoted to  
9 the use of retail trade businesses. For purposes of this section,  
10 retail trade shall mean a business which is principally engaged in  
11 the sale of goods or commodities to ultimate consumers for their  
12 own use or consumption and not for resale.

13 In cities with a population of two thousand five hundred  
14 inhabitants or less, a business shall be a qualifying business even  
15 though it derives its principal source of income from activities  
16 other than those set out in this section.

17 If a business which would otherwise be a qualifying  
18 business employs people and carries on activities in more than  
19 one city in Nebraska or will do so at any time during the first  
20 year following its application for participation in an economic  
21 development program, it shall be a qualifying business only if, in  
22 each such city, it maintains employment for the first two years  
23 following the date on which such business begins operations in the  
24 city as a participant in its economic development program at a  
25 level not less than its average employment in such city over the

1 twelve-month period preceding participation.

2 A qualifying business need not be located within the  
3 territorial boundaries of the city from which it is or will be  
4 receiving financial assistance.

5 Sec. 4. Section 18-2717, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 18-2717 (1) No city shall appropriate from funds derived  
8 directly from local sources of revenue for all approved economic  
9 development programs, in each year during which such programs are  
10 in existence, an amount in excess of ~~four-tenths~~ five-tenths of one  
11 percent of the taxable valuation of the city in the year in which  
12 the funds are collected.

13 ~~(2) Notwithstanding the provisions of subsections (1) and~~  
14 ~~(3) of this section, no city of the metropolitan or primary class~~  
15 ~~shall appropriate from funds derived directly from local sources of~~  
16 ~~revenue more than three million dollars for all approved economic~~  
17 ~~development programs in any one year, no city of the first class~~  
18 ~~shall appropriate from funds derived directly from local sources~~  
19 ~~of revenue more than two million dollars for all approved economic~~  
20 ~~development programs in any one year, and no city of the second~~  
21 ~~class or village shall appropriate from funds derived directly from~~  
22 ~~local sources of revenue more than one million dollars for all~~  
23 ~~approved economic development programs in any one year.~~

24 ~~(3)~~ (2) Notwithstanding the provisions of subsections ~~(1)~~  
25 ~~and (2)~~ subsection (1) of this section, no city shall appropriate

1 from funds derived directly from local sources of revenue an amount  
2 for an economic development program in excess of the total amount  
3 approved by the voters at the election or elections in which the  
4 economic development program was submitted or amended.

5 ~~(4)~~ (3) The restrictions on the appropriation of funds  
6 from local sources of revenue as set out in subsections (1) ~~through~~  
7 ~~(3)~~ and (2) of this section shall apply only to the appropriation  
8 of funds derived directly from local sources of revenue. Sales tax  
9 collections in excess of the amount which may be appropriated as  
10 a result of the restrictions set out in such subsections shall be  
11 deposited in the city's economic development fund and invested as  
12 provided for in section 18-2718. Any funds in the city's economic  
13 development fund not otherwise restricted from appropriation by  
14 reason of the city's ordinance governing the economic development  
15 program or this section may be appropriated and spent for the  
16 purposes of the economic development program in any amount and  
17 at any time at the discretion of the governing body of the city  
18 subject only to section 18-2716.

19 ~~(5)~~ (4) The restrictions on the appropriation of  
20 funds from local sources of revenue shall not apply to the  
21 reappropriation of funds which were appropriated but not expended  
22 during previous fiscal years.

23 Sec. 5. Section 18-2720, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 18-2720 (1) If the economic development program involves

1 the establishment of a loan fund, the governing body of the  
2 city shall designate an appropriate individual to assume primary  
3 responsibility for loan servicing and shall provide such other  
4 assistance or additional personnel as may be required. The  
5 individual may be an employee of the city, or the city may  
6 contract with an appropriate business or financial institution for  
7 loan servicing functions. The governing body of the city shall be  
8 provided with an account of the status of each loan outstanding,  
9 program income, and current investments of unexpended funds on a  
10 monthly basis. Program income shall mean payments of principal and  
11 interest on loans made from the loan fund and the interest earned  
12 on these funds.

13 (2) ~~The individual responsible for loan servicing shall~~  
14 ~~establish a separate account in a financial institution for each~~  
15 ~~loan made from the loan fund.~~ Records kept on such accounts and  
16 reports made to the governing body of the city shall include, but  
17 not be limited to, the following information: (a) The name of the  
18 borrower; (b) the purpose of the loan; (c) the date the loan was  
19 made; (d) the amount of the loan; (e) the basic terms of the loan,  
20 including the interest rate, the maturity date, and the frequency  
21 of payments; and (f) the payments made to date and the current  
22 balance due.

23 (3) The individual responsible for loan servicing shall  
24 monitor the status of each loan and, with the cooperation of the  
25 governing body of the city and the primary lender or lenders, take

1 appropriate action when a loan becomes delinquent. The governing  
2 body shall establish standards for the determination of loan  
3 delinquency, when a loan shall be declared to be in default, and  
4 what action shall be taken to deal with the default to protect  
5 the interests of the qualifying business, third parties, and the  
6 city. The governing body shall establish a process to provide for  
7 consultation, agreement, and joint action between the city and  
8 the primary lender or lenders in pursuing appropriate remedies  
9 following the default of a qualifying business in order to collect  
10 amounts owed under the loan.

11           Sec. 6. Original sections 13-315 and 18-2720, Reissue  
12 Revised Statutes of Nebraska, and sections 18-2705, 18-2709,  
13 and 18-2717, Revised Statutes Cumulative Supplement, 2006, are  
14 repealed.